



Rep. Will Guzzardi

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LRB099 04074 HEP 32353 a

1 AMENDMENT TO HOUSE BILL 2796

2 AMENDMENT NO. _____. Amend House Bill 2796 on page 1, by
3 replacing line 6 with the following:

4 "Sections 2 and 3 as follows:

5 (740 ILCS 110/2) (from Ch. 91 1/2, par. 802)

6 Sec. 2. The terms used in this Act, unless the context
7 requires otherwise, have the meanings ascribed to them in this
8 Section.

9 "Agent" means a person who has been legally appointed as an
10 individual's agent under a power of attorney for health care or
11 for property.

12 "Business associate" has the meaning ascribed to it under
13 HIPAA, as specified in 45 CFR 160.103.

14 "Confidential communication" or "communication" means any
15 communication made by a recipient or other person to a
16 therapist or to or in the presence of other persons during or

1 in connection with providing mental health or developmental
2 disability services to a recipient. Communication includes
3 information which indicates that a person is a recipient.
4 "Communication" does not include information that has been
5 de-identified in accordance with HIPAA, as specified in 45 CFR
6 164.514.

7 "Covered entity" has the meaning ascribed to it under
8 HIPAA, as specified in 45 CFR 160.103.

9 "Guardian" means a legally appointed guardian or
10 conservator of the person.

11 "Health information exchange" or "HIE" means a health
12 information exchange or health information organization that
13 oversees and governs the electronic exchange of health
14 information that (i) is established pursuant to the Illinois
15 Health Information Exchange and Technology Act, or any
16 subsequent amendments thereto, and any administrative rules
17 promulgated thereunder; or (ii) has established a data sharing
18 arrangement with the Illinois Health Information Exchange; or
19 (iii) as of the effective date of this amendatory Act of the
20 98th General Assembly, was designated by the Illinois Health
21 Information Exchange Authority Board as a member of, or was
22 represented on, the Authority Board's Regional Health
23 Information Exchange Workgroup; provided that such designation
24 shall not require the establishment of a data sharing
25 arrangement or other participation with the Illinois Health
26 Information Exchange or the payment of any fee.

1 "HIE purposes" means those uses and disclosures (as those
2 terms are defined under HIPAA, as specified in 45 CFR 160.103)
3 for activities of an HIE: (i) set forth in the Illinois Health
4 Information Exchange and Technology Act or any subsequent
5 amendments thereto and any administrative rules promulgated
6 thereunder; or (ii) which are permitted under federal law.

7 "HIPAA" means the Health Insurance Portability and
8 Accountability Act of 1996, Public Law 104-191, and any
9 subsequent amendments thereto and any regulations promulgated
10 thereunder, including the Security Rule, as specified in 45 CFR
11 164.302-18, and the Privacy Rule, as specified in 45 CFR
12 164.500-34.

13 "Integrated health system" means an organization with a
14 system of care which incorporates physical and behavioral
15 healthcare and includes care delivered in an inpatient and
16 outpatient setting.

17 "Interdisciplinary team" means a group of persons
18 representing different clinical disciplines, such as medicine,
19 nursing, social work, and psychology, providing and
20 coordinating the care and treatment for a recipient of mental
21 health or developmental disability services. The group may be
22 composed of individuals employed by one provider or multiple
23 providers.

24 "Mental health or developmental disabilities services" or
25 "services" includes but is not limited to examination,
26 diagnosis, evaluation, treatment, training, pharmaceuticals,

1 aftercare, habilitation or rehabilitation.

2 "Personal notes" means:

3 (i) information disclosed to the therapist in
4 confidence by other persons on condition that such
5 information would never be disclosed to the recipient or
6 other persons;

7 (ii) information disclosed to the therapist by the
8 recipient which would be injurious to the recipient's
9 relationships to other persons, and

10 (iii) the therapist's speculations, impressions,
11 hunches, and reminders.

12 "Parent" means a parent or, in the absence of a parent or
13 guardian, a person in loco parentis.

14 "Recipient" means a person who is receiving or has received
15 mental health or developmental disabilities services.

16 "Record" means any record kept by a therapist or by an
17 agency in the course of providing mental health or
18 developmental disabilities service to a recipient concerning
19 the recipient and the services provided. "Records" includes all
20 records maintained by a court that have been created in
21 connection with, in preparation for, or as a result of the
22 filing of any petition or certificate under Chapter II, Chapter
23 III, or Chapter IV of the Mental Health and Developmental
24 Disabilities Code and includes the petitions, certificates,
25 dispositional reports, treatment plans, and reports of
26 diagnostic evaluations and of hearings under Article VIII of

1 Chapter III or under Article V of Chapter IV of that Code.
2 Record does not include the therapist's personal notes, if such
3 notes are kept in the therapist's sole possession for his own
4 personal use and are not disclosed to any other person, except
5 the therapist's supervisor, consulting therapist or attorney.
6 If at any time such notes are disclosed, they shall be
7 considered part of the recipient's record for purposes of this
8 Act. "Record" does not include information that has been
9 de-identified in accordance with HIPAA, as specified in 45 CFR
10 164.514. "Record" does not include a reference to the receipt
11 of mental health or developmental disabilities services noted
12 during a patient history and physical or other summary of care.

13 "Record custodian" means a person responsible for
14 maintaining a recipient's record.

15 "Therapist" means a psychiatrist, physician, psychologist,
16 social worker, or nurse providing mental health or
17 developmental disabilities services or any other person not
18 prohibited by law from providing such services or from holding
19 himself out as a therapist if the recipient reasonably believes
20 that such person is permitted to do so. Therapist includes any
21 successor of the therapist.

22 "Therapeutic relationship" means the receipt by a
23 recipient of mental health or developmental disabilities
24 services from a therapist. "Therapeutic relationship" does not
25 include independent evaluations for a purpose other than the
26 provision of mental health or developmental disabilities

1 services.

2 (Source: P.A. 98-378, eff. 8-16-13.)".